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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,597	01/09/2002	Dan Gunderson	Q02-1001-US1	2314

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EXAMINER

FIGUEROA, NATALIA

ART UNIT PAPER NUMBER

2651

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/043,597	Applicant(s) GUNDERSON ET AL.	
	Examiner Natalia Figueroa	Art Unit 2651	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 November 2004 (Amendment).
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 36 is/are allowed.
- 6) ☒ Claim(s) 1, 14-16, 23, 24, 34 and 35 is/are rejected.
- 7) ☒ Claim(s) 2-13, 17-22 and 25-33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 15-16, 23-24 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Shrinkle (USPN 5,585,974).

RE claim 1, Shrinkle discloses a method of improving data playback error performance in data storage devices for storing data on removable data recording media, each data storage device having multiple read/write heads for recording data to the media during a write process and for playing back data from the media during a read process (abstract, fig. 1 and col. 7, lines 6-7), comprising the steps of (a) selecting a target error rate for recording data during the write process, for one or more of the data storage devices (abstract and col. 7, lines 8-10); and (b) for each data storage device, determining a dither value for each head in the data storage device, wherein for each head, using the corresponding dither value for the write process essentially provides said selected target error for all the heads (abstract and col. 7, lines 13-22).

RE claims 15-16, claims 15-16 have limitations similar to those treated in claim 1 in the above rejection, and are met by the same rejection of anticipation as discussed in the above reference.

RE claims 23-24, claims 23-24 have limitations similar to those treated in claim 1 in the

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above rejection, and are met by the same rejection of anticipation as discussed in the above reference:

RE claim 35, apparatus claim 35 is drawn to the apparatus corresponding to the method of using same as claimed in claim 1. Therefore apparatus claim 35 corresponds to method claim 1, and is rejected for the same reasons of anticipation as used above.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 14 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shrinkle in view of Melbye (USPN 6,233,109).

RE claim 14, Shrinkle is relied upon for the reasons of rejection as stated above. Shrinkle fails to explicitly teach that the storage device comprises a tape drive including multiple transducer heads, and the recording media comprises magnetic tapes.

However, Melbye discloses such on (col. 2, lines 47-64). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to improve upon the method as disclosed by Shrinkle with the above teachings from Melbye to provide for the capability of using a detection error means in a tape drive system, therefore operating at a margin level of performance hence optimizing data detection in the medium.

RE claim 34, claim 34 has limitations similar to those treated in claim 14 in the above rejection, and is met by the same rejection of obviousness as discussed in the above reference.

***Allowable Subject Matter***

6. Claims 2-13, 17-22, 25-29 and 30-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments; see pages 10-20, filed 29 November 2004, with respect to claims 2-4, 8-11, 17-19, 26-28 and 30-31 have been fully considered and are persuasive. The rejections of claims 2-4, 8-11, 17-19, 26-28 and 30-31 have been withdrawn.

8. Applicant's arguments; see pages 10-20, filed 29 November 2004, with respect to claims 1, 14-16, 23-24 and 34-35 have been fully considered but are moot in view of the new grounds of rejection.

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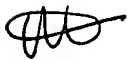
***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalia Figueroa whose telephone number is (571) 272-7554.

The examiner can normally be reached on Monday - Thursday 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Hudspeth can be reached on (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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